

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

TINA LINDQUIST	:	NO. 04-249E
Plaintiff,	:	
	:	THE HONORABLE
v.	:	SEAN J. MCLAUGHLIN
	:	
HEIM, L.P.	:	
Defendant.	:	

PLAINTIFF'S MOTION TO CONTINUE TRIAL

Now comes the Plaintiff, Tina Lindquist, by and through her undersigned counsel and files the within Motion to Continue Trial and avers the following:

1. This product liability case arises out of an industrial accident that took place on September 25, 2002.

2. On that date, the Plaintiff, Tina Lindquist, sustained traumatic amputation of all eight (8) of her fingers in a machine manufactured by Defendant, Heim, L.P.

3. Since the date of her accident, Tina Lindquist has been subjected to eight (8) surgical procedures performed by John M. Hood, M.D.

4. Extensive liability and expert discovery has been conducted on this case and each of the parties have retained liability experts from the Chicago, Illinois, area.

5. After discovery was completed, the Defendant, Heim, L.P., filed a Motion for Summary Judgment on May 15, 2006.

6. The Plaintiff timely replied to this Motion for Summary Judgment on May 22, 2006.

7. In order to prepare this matter for trial and while the Summary Judgment Motion was pending before the Magistrate Judge, counsel for the Plaintiff noticed the videotape deposition of John Hood, M.D. for Friday, December 8, 2006.

8. On December 7, 2006, a severe snow and ice storm struck the Erie area.

9. Counsel for the Plaintiff and counsel for Defendant consulted with Dr. Hood's office prior to the deposition and agreed to proceed to secure the videotape deposition on December 8, 2006.

10. On the evening of December 7, 2006, and in the early morning hours of December 8, 2006, the weather continued to worsen and the treating physician, Dr. Hood, cancelled the deposition as he felt that there was a severe travel risk on that day.

11. On that same day, the deposition was promptly rescheduled and the videotape deposition of Dr. Hood was noticed for Friday, February 23, 2007.

12. Counsel was advised by Dr. Hood's office, that this was the first date when he would be available for a deposition in 2007.

13. On December 11, 2006, the Honorable Susan Paradise Baxter filed a Magistrate Judge's Report and Recommendation recommending the Motion for Summary Judgment filed by the Defendant be denied.

14. In that Report and Recommendation and according to the Magistrate's Act, the Defendant is permitted to file written objections to the report.

15. Counsel for the Defendant has represented that he will be electronically filing his objections on or before December 28, 2006.

16. On December 19, 2006, the trial term beginning on January 22, 2007 was docketed and this case appeared on that trial list.

17. The Plaintiff cannot secure the deposition of Dr. Hood prior to January 22, 2007.

18. The Defendant has no objection to this matter being removed from the January 22, 2007, trial list and be listed on the trial list commencing March 12, 2007.

19. All the depositions necessary to proceed to trial will be completed by March 12, 2007 and no further continuances of this matter will be necessary.

WHEREFORE, in light of the foregoing, Plaintiff respectfully request that this Honorable Court enter an Order removing this case from the January 22, 2007 trial term and re-listing the matter for the March 12, 2007, trial term.

DALLAS W. HARTMAN, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the within document was served on the party below in the following manner:

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